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DK

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/423,554	11/10/99	ARISTIDOU	A 0933-148P

<input type="checkbox"/>	HM22/0405	<input type="checkbox"/>	EXAMINER
BIRCH STEWART KOLASCH & BIRCH		WALICKA, M	
PO BOX 747			
FALLS CHURCH VA 22040-0747		ART UNIT	PAPER NUMBER
		1652	8
		DATE MAILED:	04/05/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/423,554	ARISTIDOU ET AL.	
Examiner	<b>Art Unit</b>		
Malgorzata A. Walicka	1652		

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 10 November 1999 and 29 December 1999.

2a)  This action is **FINAL**.                            2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

4)  Claim(s) 1-38 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) \_\_\_\_\_ is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claims 1-38 are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

11)  The proposed drawing correction filed on \_\_\_\_\_ is: a)  approved b)  disapproved.

12)  The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. § 119**

13)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

15)  Notice of References Cited (PTO-892) 18)  Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_  
16)  Notice of Draftsperson's Patent Drawing Review (PTO-948) 19)  Notice of Informal Patent Application (PTO-152)  
17)  Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_. 20)  Other: \_\_\_\_\_

The application is a 371 of PCT/FI99/00185 published as WO 94/18326. The preliminary amendments filed on November 10 and December 29, 1999 has been entered. Claims 1-38 are pending.

### **Election/Restriction**

Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

**Group I:** claims 1-7, 8-10, 17-20, 22, 25-26, 28, 29, 30, 33 and 38 drawn to an organism and method of production of ethanol, classified in class 435 subclass 161.3 and 254.2.

**Group II:** claims 1-7, 15-16, 17-20, 21, 25-26, 28, 29, 31 and 32 drawn to an organism and method of production of xylitol, classified in class 435 subclass 155 and 254.2.

**Group III:** claims 1-7, 11, 12, 17-18, 23-24, 27-30, 34, 35 and 36 drawn to an organism and method of production of lysine, classified in class 435 subclass 115 and 254.2.

**Group IV:** claims 1-7, 13, 14, 17-20, 28-30 and 36-37, drawn to an organism and method of production of polyhydroxybutyrate, classified in class 435 subclass 155 and 254.2.

The inventions listed as Groups I-IV do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons:

The special technical features of Group I, II, III and IV are the recombinant microorganisms which produce ethanol, xylitol, lysine and polyhydroxybutyrate. Groups I-IV are drawn to four independent methods of making different chemical compounds. 37 CFR 1.475 does not provide for multiple products or **methods** within a single application and therefore unity of invention is lacking with regard to Groups I-IV. Thus, restriction is proper.

In accordance with 37 C.F.R. 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted. Common claims among Groups will be examined to the extent necessary for the complete examination of the elected subject matter.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Małgorzata A. Walicka, Ph.D., whose telephone number

is (703) 305-7270. The examiner can normally be reached Monday-Friday from 10:00 a.m. to 4:30 p.m.

If attempts to reach examiner by telephone are unsuccessful, the examiner's supervisor, Ponnathapura Achutamurthy, Ph.D. can be reached on (703) 308-3804. The fax number for this Group is (703) 305-3014.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionists whose telephone number is (703) 308-0196.

Malgorzata A. Walicka, Ph.D.  
Art Unit 1652  
Patent Examiner

  
NASHED  
NASHAATT. NASHED PH.D.  
PRIMARY EXAMINER

Christine Washington

1652

5001

#74  
330-00

PAGE: 1

RAW SEQUENCE LISTING  
PATENT APPLICATION US/09/423,554

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TIME: 17:16:25

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This Raw Listing contains the General Information  
Section and up to first 5 pages.

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1 <110> APPLICANT: ARISTIDOU, Aristos  
2 LONDESBOROUGH, John  
3 PENTTILA, Merja  
4 RICHARD, Peter  
5 RUOHONEN, Laura  
6 SODERLUND, Hans  
7 TELEMAN, Anita  
8 TOIVARI, Mervi  
9 <120> TITLE OF INVENTION: TRANSFORMED MICROORGANISMS WITH IMPROVED PROPERTIES  
10 <130> FILE REFERENCE: 0933-148P  
11 <140> CURRENT APPLICATION NUMBER: US/09/423,554  
12 <141> CURRENT FILING DATE: 1999-12-28  
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14 <151> EARLIER FILING DATE: 1999-03-11  
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